

ELECTIONS: LOCAL RECEIVING BOARDS

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House Bill 5482 as introduced
Sponsor: Rep. Chris Ward
Committee: Local Government and Urban Policy

First Analysis (2-19-04)

BRIEF SUMMARY: House Bill 5482 would amend the Michigan Election Law to allow for the appointment of a local receiving board to receive election ballots. The bill also describes the election protocols the receiving board would follow.

FISCAL IMPACT: The fiscal impact would be an indeterminate cost to local units of government.

THE APPARENT PROBLEM:

Fair and efficiently run elections require uniform procedures that ensure total impartiality and systematic record-keeping. Because individual states conduct the elections in our country, the administrative procedures for those elections are codified in state law. While there is some similarity in the protocols for the elections, themselves, the precise structure of elections offices varies widely among the 50 states. To ensure that the election processes among the states are uniform enough to enable fair national elections, the Federal Election Commission keeps track of the states' differences and similarities within their election offices, and communication between state officials is encouraged by the National Association of State Election Directors. See *Background Information* below.

Generally, election officials within a state coordinate their efforts at the state, county, and township, and city levels of government. For example, in Michigan, at the state level, the secretary of state serves as the chief election officer, elected for a four-year term. It is the secretary of state's responsibility to supervise the administration of all elections, and to publish and furnish instruction manuals to election officials and precinct boards. That office also prescribes uniform notices, forms, supplies and ballots, and in addition, reports violations of election law to the attorney general. At the state level, a director of elections heads the Bureau of Elections within the Office of the Secretary of State. The director performs supervisory and administrative duties, and is required to conduct training for local officials prior to the November general elections, and at other times when training is necessary. Finally, there is a four-member Board of State Canvassers appointed by the governor with the consent of the Senate to four-year terms. The state board canvasses returns and determines the results of federal, state, and district elections, approves in advance all voting systems, and conducts recounts.

In addition, at the local level, local elections offices include the Board of County Election Commissioners, comprising the chief judge of the probate court, the county clerk, and the county treasurer. The commissioners print and distribute ballots for all elections. Then, there also is a Board of County Canvassers having four members appointed by the county board of commissioner for four-year terms. They canvass the votes cast in elections within the county and certify the results, declare the results of county and local elections, and conduct recounts at the local level. A third local office is that of the city, township, or village clerk. The clerks administer all voter registration, and process local nominating petitions. Further, local election commissioners hire precinct workers. Finally, there are those who work only on the day of the election, generally called Election Day Officers, and in Michigan they include the Board of Inspectors, which is appointed to monitor poll activity of election day, and also the “challengers,” because Michigan law allows political parties, and interest groups to appoint individuals to be present at polling places.

Most states have a three-tier system of state, county, and local election officers similar to Michigan’s. However, at the local level, three states—Alaska, Colorado, and Kansas—also have “receiving teams. (Alaska appoints “receiving teams”, Colorado “receiving judges”, and in Kansas “receiving boards.”) The members of the receiving board accept the sealed ballot boxes and poll books when they are returned by precinct workers to the local clerk’s office. When they accept the materials from the lead precinct worker, the receiving board checks to ensure that protocols have been carefully followed, and then forwards the ballot containers to the clerk so that the vote can be tallied.

Legislation has been introduced to allow local election officials in Michigan to appoint members to “receiving boards” who would work on election day.

THE CONTENT OF THE BILL:

House Bill 5482 would amend the Michigan Election Law to allow for the appointment of a local receiving board to receive election ballots. The bill also describes the election protocols the receiving board would follow.

The bill specifies that the legislative body of a city, township, or village could, by resolution, provide for one or more additional boards of election inspectors as receiving boards, at an election where ballots were counted at the precinct. For a precinct having receiving boards, the election commissioners would be required to appoint a receiving board consisting of two or more election inspectors, with at least one inspector from each major political party, and then also appoint an equal number, as nearly as possible, of inspectors from each major political party.

Under the bill, not less than two election inspectors in a precinct, representing each of the major political parties, would deliver to the receiving board for that precinct a sealed ballot container that held the voted ballots, and in a separate sealed envelope, the poll book and the statement of returns.

The bill specifies that the receiving board would open the sealed envelope and review the poll book and statement of returns to determine both of the following:

1) that the ballot container was properly sealed and the seal number was properly recorded in the poll book and the statement of returns. If the ballot container had not been properly sealed or there was a discrepancy, the election inspectors who delivered the ballot container and the receiving board would together take the necessary steps to correct the discrepancy. Further, the inspectors and the receiving board would note the discrepancy and the corrective action in the remarks section of the poll book, and then all would sign the notation.

2) that the number of individuals voting recorded in the poll board equaled the number of ballots issued to electors, as shown by the statement of returns. If the number of individuals voting did not equal the number of ballots counted, and if an explanation of the discrepancy had not been noted in the poll book, then the receiving board would be required to ask the election inspectors about the discrepancy, note the explanation in the poll book, and then all would sign the notation.

The bill further specifies that if the poll book or statement of returns had been erroneously sealed in the ballot container, then the election inspectors could open the ballot container and remove them. The elections inspectors and the receiving board would be required to note the corrective action in the remarks section of the poll book, and all would sign the notation before placing the poll book or statement of returns in a separate sealed envelope. If the statement of returns had been sealed in the ballot container, but the poll book had been sealed in an envelope, then the poll book would be removed from the envelope for notation of corrective action, before being placed together with the statement of returns in a sealed envelope. Then the receiving board would notify the clerk of the board of canvassers responsible for canvassing all or a portion of the election of the corrective actions that had been taken.

Finally, when the receiving board had completed its review, it would place the poll book and statement of returns in the appropriate envelope, sealed with a red paper seal and initialed by the receiving board. If permitted by the clerk for the board of canvassers, the poll books and statement of returns from more than one precinct could be included and delivered in a single envelope.

MCL 168.679a

BACKGROUND INFORMATION:

For more information about the administrative structures of state election offices, visit <http://www.fec.gov/pages/tech3.htm>

To learn more about the National Association of State Election Directors (NASED), visit their website at <http://www.nased.org>.

ARGUMENTS:

For:

To ensure fair elections, it is important that the ballot containers and poll books from voting precincts that are delivered by the chief pollworkers to the local clerks, be sealed. County and local clerks are prohibited by law from handling the materials delivered from the polls, because many are partisan elected officials. Consequently, the local elections inspectors must receive the ballot containers and accompanying documents.

Clerks have expressed the need for a group of appointed receivers who would work on election day to accept the ballots and ensure their proper treatment before the vote is tallied. For example, in one state where receiving boards are utilized, the teams are responsible for receiving the ballots from precinct delivery teams, logging information regarding those ballots in a receiving team log, inspecting the seal on the ballot container, completing a delivery receipt and presenting a copy to the delivery teams, and then delivering the ballot containers to the vote counter.

This legislation would allow, but not require, local clerks to appoint receiving boards for similar purposes.

POSITIONS:

The Office of the Secretary of State supports the bill. (2-17-04)

The Michigan Townships Association supports the bill. (2-17-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.